

REMARKS

1. Reconsideration for the requirement for restriction is again respectfully requested for reasons previously advanced, it being noted that examination of the withdrawn claims can be made without serious burden.

Claim 1 reads as follows:

1. A dryer for drying vegetable product, such as coffee beans, comprising:
a thermal collector constructed and arranged to convert light energy to heat energy;
a heat transfer system;
a housing having a drying chamber; and
wherein said heat transfer system is in thermal communication with both said thermal collector and said drying chamber such that heat is able to move from said thermal collector to said drying chamber.

Claim 22 reads as follows:

22. A method for drying vegetable product in a dryer comprising:
placing said vegetable product in a drying chamber;
collecting light energy;
transforming said light energy into heat energy;
transferring said heat energy into said drying chamber; and
exhausting moisture from said drying chamber.

It is evident that in conducting a search of the subject matter of claim 1, references relative to the subject matter of claim 22 would be uncovered. Furthermore, all the withdrawn claims depend upon claim 22 and add limitations commensurate with limitations added by dependent claims in the elected group so that a search of subject matter related to elected claims would be coextensive with a search for subject matter in the withdrawn claims.

2, 3. The withdrawal of the rejection of claims 1-21 and 32-42 is noted.

4-7. In response to the questions, the presentation to the Special Coffee Association in March, 1997, was held in Philadelphia in the United States. The Mesoamerican Development Institute was invited to present on the topic of coffee drying and its impact on the environment

and the potential for alternatives, such as renewable energy technology, to provide an alternative to the burning of forests to dry coffee. This conference allowed the Mesoamerican Development Institute to speak to the broad environmental and social issues --- not specifics on the technology that the Mesoamerican Development Institute was researching and developing at that time.

The Specialty Coffee Association of America requires presenters to adhere to submission guidelines before presenting a "knowledge building" presentation that expressly prohibits presentations promoting a company or product. "Presentations promoting a company or product will not be considered." --- Specialty Coffee Association Presentation Submission Guidelines.

The Examiner asks, "Was the apparatus of the instant application offered for sale in the United States prior to, during or subsequent to this presentation?" The apparatus of the instant application was not offered for sale in the United States prior to or during this presentation. In 2001, the technology was readied for commercialization and offered for sale (or lease with option to purchase). The apparatus depicted in the two documents cited, has never been offered for sale --- that was a research platform only. Data from the apparatus depicted in the documents was used to configure and design a commercially viable system. This system was offered for sale in the year 2001 --- two systems were leased with option to purchase: one in Costa Rica --- lease signed on November 12, 2001; the other in Nicaragua --- lease signed on October 5, 2001.

The Examiner asks, "Was there any additional material distributed during the presentation regarding the apparatus of the instant application?" No additional material was distributed during the presentation. New materials were developed in 2001 and 2002 to support the introduction of the technology. Accordingly, withdrawal of the rejection of claims 1-21 under Section 102(b) is respectfully requested.

8-11. We have responded to the questions with candor and good faith.

13. The drawings are objected to as failing to comply with 37 C.F.R. 1.84(p)(5) because they include reference signs not mentioned in the description. We have amended the drawings to delete 22, 118 and 410.

14. The drawings are objected to as failing to comply with 37 C.F.R. 1.84(p)(5) because they do not include reference signs mentioned in the description: elements 256, 258, 260 on page 18 and element 426 on page 20. We enclose a proposed drawing correction including these elements.

15. The drawings are objected to as failing to comply with 37 C.F.R. 1.84(p)(4) because reference characters 76 and 82 have both been used to designate a heat exchanger in FIG. 3. We have deleted 82.

16. The drawings are objected to under 37 C.F.R. 1.84(q) due to the use of improper reference character notation. It is said the reference characters 202 in FIG. 8 and 308 in FIG. 9 require underlining. We enclose a proposed drawing correction overcoming this objection.

17. The disclosure is objected to because reference characters 240 and 540 have both been used to designate support framework on page 21. We have amended the specification to overcome this objection.

18, 19. Claims 1-21 stand rejected under 35 U.S.C. § 102(b) as unpatentable based on the printed publication "Solar/Biomass Coffee Drying Systems" or "Café Solar." Either publication is said to disclose a drier for drying vegetable product as shown in FIG. 1, comprising a thermal collector 1 constructed and arranged to convert solar energy to heat energy, a heat transfer system 2, a housing having a drying chamber 3, wherein the heat transfer system 4 is said to be in thermal communication with both the thermal collector 1 and the drying chamber 3 such that heat is able to move from the thermal collector 1 to the drying chamber 3. We rely on the authorities set forth on pages 4 and 5 of the response mailed December 27, 2000. Neither reference clearly and definitely discloses each and every element in the rejected claims arranged as in the rejected claims. Furthermore, each reference only discloses what the system does, and does not disclose to one skilled in the art how to make the claimed invention work.

What the Examiner has done is to use the claims being rejected as a blueprint or template for attempting to read the prior art upon it. None of the references label the numbered items with the claim language. The alleged teaching is found, not in the references but in the claims being rejected. It is error to reconstruct the claimed invention from the prior art by using the rejected claim as a "blueprint." *Interconnect Planning Corp. v. Feil*, 227 U.S.P.Q. 543, 548 (Fed. Cir. 1985).

Here, the Examiner relied upon hindsight to arrive at the determination of obviousness. It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious.¹⁵ This court has previously stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated

disclosures in the prior art to deprecate the claimed invention."¹⁶ *In re Fritch*, 23 U.S.P.Q. 2d 1780, 1784 (Fed. Cir. 1992).

15 *In re Gorman*, 933 F.2d 982, 987, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991). See also *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1138, 227 USPQ 543, 547 (Fed. Cir. 1985).

16 *In re Fine*, 837 F.2d at 1075, 5 USPQ2d at 1600.

"The prior art reference must be enabling, thus placing the allegedly disclosed matter in the position of the public." *Akzo N.V.V. U.S. Int'l Trade Comm'n*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986).

Accordingly, withdrawal of the rejection of claims 1-21 as anticipated by either reference is respectfully requested. If this ground of rejection is repeated, the Examiner is respectfully requested to quote verbatim the language in each reference regarded as identifying elements in the rejected claims and quote verbatim the language in each reference regarded as placing the allegedly disclosed matter in the possession of the public.

20. Claims 2-13 and 17-21 stand rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Mullen. The reference is said to disclose a dryer for drying vegetable product 26 as said to be shown in FIG. 1 comprising, a thermal collector 12 constructed and arranged to convert solar energy to heat energy, a heat transfer system 16, a housing having a drying chamber, wherein the heat transfer system 16 is said to be thermal communication with both the thermal collector 12 and the drying chamber 24 such that heat is able to move from the thermal collector 12 to the drying chamber 24.

We rely on the authorities set forth on pp. 4-5 of the response mailed December 27, 2000. The reference fails to disclose the photovoltaic module constructed and arranged to produce electrical power to the heat transfer system electrically connected to the heat transfer system as called for by claims 2-4, nor the first heat transfer circuit including a first pump and a first heat transfer medium, a second heat transfer circuit including a second pump and a second transfer heat medium, and a first heat exchanger and wherein the first heat exchanger is in thermal communication with a thermal collector via the first heat transfer circuit and the first heat exchanger is in thermal communication with a drying chamber via the second heat transfer circuit such that heat is able to move from the first heat transfer circuit to the second heat transfer circuit as called for by claims 5-13, nor claims 17-21 calling for the electrical sources. Accordingly, withdrawal of the rejection of claims 2-13 and 17-21 as anticipated by the

reference is respectfully requested. If this ground of rejection is repeated, the Examiner is respectfully requested to quote verbatim the language in the reference regarded as corresponding to each element in each of these rejected claims.

21. Claims 32-42 stand rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Crossley. The reference is said to disclose a dryer for drying vegetable product comprising a housing 26 defining a cylindrical drying chamber 22, the housing 26 having an outer wall extending around the drying chamber 22, the outer wall defining a plurality of perforations for intaking and exhausting fluid, with specific reference to column 2, lines 13-19, and infuser 62 adjacent to the perforations for infusing fluid through the perforations, with specific reference to column 2, lines 58-79 and wherein the housing 26 is constructed and arranged to rotate relative to the infuser 62, with specific reference to column 2, lines 27-37.

This ground of rejection is respectfully traversed. The reference does not disclose a drier for drying vegetable product. The reference entitled, "Apparatus for Infusing Tea, Coffee and the Like" discloses, "An apparatus for infusing a single unit serving of a beverage such as coffee wherein dry ingredients and hot liquid are fed to a chamber at least part of a wall of which is pervious to liquid, the chamber is rotated about a horizontal axis to infuse the beverage and force it outwards through the previous wall of the chamber under the influence of centrifugal force, and the spent ingredients are discharged from one end of the chamber as by a piston disc movable relative to the chamber." Abstract. Manifestly, wetting dry ingredients with hot liquid is the exact opposite of a drier for drying vegetable product as disclosed and claimed in this application.

The reference does not disclose a housing 26 defining a cylindrical drying chamber 22. The reference discloses, "A liquid pervious cylindrical chamber 22 is constituted by a bronze carrier part 24 with a brazed-on perforated cylinder 26 projected outwardly therefrom...." Column 2, lines 13-15. The reference explains, "Hot water together with the dry ingredient is fed to the chamber 22, and the cylinder is simultaneously rotated at high speed by the motor 34, so that under the influence of centrifugal force the ingredient lies against the inner surface of the chamber and the hot water is forced through the ingredient and through the pervious wall of the cylinder into the space surrounding the cylinder within the casing 10." Column 2, line 72-column 3, line 3. A chamber fed hot water together with the dry ingredient can hardly be

characterized as a drying chamber when it is actually a wetting chamber. Nor does the reference disclose the limitations added by claim 32, calling for the infuser being periodically adjacent to the first and second relative sides of the outer wall, the first and second sides capable of changing position as the housing rotates relative to the infuser, the first relative side being in a position for intaking fluid into the drying chamber when the second relative side is in a position for exhausting fluid from the drying chamber. Nor does the reference disclose the limitations added by claim 34 calling for the infuser being in thermal communication with a heat source for heating fluid to be infused into the drying chamber. Nor does the reference disclose that the infuser comprises a pump in fluid communication with the drying chamber through the perforations. Nor does the reference disclose the set of doors in the cylindrical wall to load and unload vegetable product added to claim 36 by claim 37. Nor does the reference disclose a set of support members providing channels substantially oriented in the direction of the fluid flow path called for by claim 39, disclose the channels adjustable relative to the vertical direction added to claim 39 by claim 40, nor the housing comprising an entry port and an exit port, with the entry port located vertically upward relative to the exit port added to claim 39 by claim 41, or the limitation added to claim 39 by claim 42 calling for the channels being constructed and arranged to conduct product from a higher level relative to a ground level to a lower level relative to the ground level. Accordingly, withdrawal of the rejection of claims 32-42 as anticipated by Crossley is respectfully requested. If this ground of rejection is repeated, the Examiner is respectfully requested to quote verbatim the language in the reference regarded as corresponding to each element in these rejected claims.

In view of the foregoing cancellations, amendments, remarks and authorities of record, all the claims in this application are submitted to be in a condition for allowance, and notice thereof is respectfully requested. Should the Examiner believe this application is not in a condition for allowance, she is respectfully requested to telephone the undersigned attorney at (617) 521-7014 to discuss what additional steps she believes are necessary to place the application in a condition for allowance.